

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
CHARLOTTE DIVISION**

HAYWARD INDUSTRIES, INC.,

Plaintiff, Counterclaim  
Defendant

v.

BLUEWORKS CORPORATION,  
BLUEWORKS INNOVATION  
CORPORATION, NINGBO C.F.  
ELECTRONIC TECH CO., LTD; NINGBO  
YISHANG IMPORT AND EXPORT CO.,  
LTD.

Defendants,  
Counterclaim Plaintiffs.

Civil Action No. 3:20-CV-710 -MOC-DSC

**HAYWARD INDUSTRIES, INC.'S MEMORANDUM OF LAW IN SUPPORT OF  
ITS CONSENT MOTION TO SEAL DESIGNATED DEPOSITION TRANSCRIPT**

Plaintiff Hayward Industries, Inc. respectfully requests pursuant to Local Rule 6.1, 7.1, and the Stipulated Protective Order endorsed by the Court (Doc. No. 68), to file under seal documents in connection with designated portions of a deposition transcript the parties may rely on at trial.

As grounds for this motion, Hayward states as follows:

1. On January 20, 2022, this Court entered the Stipulated Protective Order (Doc. No. 68).
2. The Stipulated Protective Order provides that “Designated Discovery Material should be redacted from any document by the non-producing party prior to filing with the Court. Any pleading, paper, or other document filed with the Court that discloses Designated Discovery Material (or the content or substance thereof) shall be filed under temporary seal pursuant to Local

Civil Rule 6.1., and a motion to seal, per the requirements of Local Civil Rule 6.1 shall be filed therewith.” (Doc. No. 68 § C).

3. Pursuant to the Stipulated Protective Order, a party may designate information as confidential that a party reasonably believes in good faith to contain confidential information. *See* (Doc. No. 68 § A.1). Information may be designated ATTORNEYS EYES ONLY upon making a good faith determination that the “information is so highly sensitive that its disclosure to another party could result in a competitive or commercial disadvantage to the producing party or reflects highly sensitive nonpublic commercial, proprietary, financial, business or personal information.” (Doc. No. 68 § A.2).

4. The material filed in connection with this motion under seal is sensitive and confidential business information and other information that Defendants have labeled as Attorneys Eyes Only and Confidential. This material constitutes sensitive business information, the disclosure of which is likely to cause significant harm to an individual or to the business or competitive position of the designating party. This information, if disclosed, could be used by a competitor to gain a competitive business advantage in the market.

5. Hayward seeks to file documents under seal such as a deposition transcript of a witness previously designated as confidential or attorneys’ eyes only.

6. Courts regularly find that information disclosing a party’s confidential business records may appropriately be sealed. *See, e.g., Silicon Knights, Inc. v. Epic Games, Inc.*, No. 5:07-CV-275-D, 2010 WL 2465226, at \*2 (E.D.N.C. June 15, 2010); *Big Rock Sports, LLC v. AcuSport Corp.*, No. 4:08-CV-00159-F, 2011 WL 1213071, at \*1 (E.D.N.C. Mar. 31, 2011); *Girl Scouts of United States of Am. v. Boy Scouts of Am.*, No. 18-CV-10287, 2021 WL 76293, at \*2 (S.D.N.Y.

Jan. 8, 2021) (granting motion to seal information regarding “market intelligence, marketing strategy, advertising expenditures, communications strategy, and business strategy”);

*Smile, Inc. v. Dr. Jonathan Levine, D.M.D. P.C.*, 769 F. Supp. 2d 630, 649–50 (S.D.N.Y. 2011) (granting motion to seal “highly proprietary material concerning the defendants' marketing strategies, product development, costs and budgeting”).

7. Counsel for Defendants confirmed via email on February 16, 2024, that Defendants support this motion.

WHEREFORE, pursuant to Local Rule 6.1, Hayward respectfully requests that this Court enter an order granting Hayward’s motion to file under seal and impounding the document and information described above until further order of the Court.

Date: February 16, 2024

Respectfully Submitted,

**HAYWARD INDUSTRIES, INC.**

By its attorneys,

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